

THE MARRIAGE INSTITUTION

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custom in all classes to try life together before marriage (*Probe-nachte*). In the fifteenth century, if kings were married by proxy, the proxy slept with the bride, with a sword between, before the church ceremony.¹ The custom to celebrate marriages without a priest lasted, amongst the peasants of Germany, until the sixteenth century.² " It was, therefore, customary [in the thirteenth century] to have the church blessing, but generally only after consummated marriage. The blessing was not essential, but was considered appropriate and proper, especially in the higher classes. In the fourteenth century the ecclesiastical form won more and more sway over the popular sentiment." ³

434. Church marriage. Concubines. It is necessary to notice that there is never any question of the status of men. They satisfy their interests as well as they can and the result is the stage of civilization. The status of women is their position with respect to men in a society in which men hold the deciding voice. Men bear power and responsibility. Women are the coadjutors, with more or less esteem, honor, cooperative function, and joint authority. There has never until modern times been a law of the state which forbade a man to take a second wife with the first. A man could not commit adultery because he was not bound, by law or mores, to his wife as she was to him. A man and woman marry themselves and lead conjugal life in a world of their own. Church and state would be equally powerless to marry them. The church may " bless " their union. The state may define and enforce the civil and property rights of themselves or their children. It cannot enforce conjugal rights. Therefore

it cannot divorce two spouses. They divorce themselves. The state can say what civil and property right shall be affected by the divorce, and how the force of the state shall enforce the consequences. The marriage relation is domestic and private, where the wills of the individuals prevail and where the police cannot act. The Christian church, about the thirteenth century, introduced a marriage ritual in which the spouses promised exclusive fidelity, the man as much as the woman. As fast and as far

¹ Friedberg, 90.
A._y 61.

² Hagelstange, *Bauernleben im M.*

⁸ Friedberg, 85; cf. Weinhold, *D. p.*, I, 378; Grimm, */>.* R. A*, 436.